President.—But he never asked me to wait. He did not tell me.

Dr. A. G. Menon.—He had a very urgent business, and it was why he requested you to give a ruling yesterday.

President.—He said that some Members would be going being the last day and that, therefore, the ruling might be given then. That was what I understood.

Mr. E. Ikkanda Warriar.—It appears somebody is ill.

Dr. A. G. Menon.—Only after 5 he settled to go.

President.—He might have dropped a letter to me. That also is not done.

The Member being absent, the motion is considered withdrawn.

Hence the following adjournment motion was considered withdrawn:—

"The recent transfer of the accused in the Kottanallur murder case now undergoing imprisonment in the Central Jail to the General Hospital, Ernakulam, for special treatment for neuritis while neglecting other prisoners in a more deplorable condition suffering from the same disease, thereby causing discontent among the prisoners by this invidious and favoured treatment of one who is reputed to be very wealthy."

3. Caste and Religious Disabilities Removal Bill (*contd.*).

President.—We shall continue the consideration of the Caste and Religious Disabilities Removal Bill. Mr. P. Krishna Menon had not finished his speech when the House rose for the day. I will ask him now to proceed.

Mr. P. Krishna Menon.—The few minutes that I took up yesterday were utilised for making a few general remarks with regard to the vagueness of the Bill so far as the disabilities are concerned, and also to the serious inconvenience that will be introduced if legislative sanction is given to the rights which are attempted to be protected.

Going over the Bill rather in detail, it may interest the House to know that the whole thing is clothed in such attractive language that the real purport and object of the Bill are certainly concealed in a glamour of statements which are likely to rouse the sympathy of those who deal with it.

Now, the preamble to it says, "Whereas it has been the policy of the State to allow the freedom of religion to everyone". Naturally the sentence that ought to follow that is 'such policy should be continued', because the prominence given to that sentence is 'to allow freedom of religion'. There is not a single provision in the Bill to provide against any inroad into that freedom. In other words, there is absolutely nothing, no disability, now, with regard to

LIBRARY ARCHIVES Kerala Legislative Assembly

the freedom of religion and freedom of caste. Then comes the next sentence: "Whereas it is expedient that a person should not be deprived of any of his rights because of his change of religion or expulsion from his caste, it is hereby enacted as follows".

Now it has come down to the expression "whereas it is expedient". What are the reasons for saying that it is expedient to allow the person to change the religion and at the same time to retain his rights? With regard to the question of the change of religion, as far as I know, I do not think that there is any law or custom in the State which deprives a man who changes his religion of any of his rights. It is confined, as is known to everybody, to the expulsion from the caste. The disabilities accrue only on expulsion from the caste and not from the change of religion. For instance, supposing I, a born Hindu, believe in Christianity. Do I, by that, lose any of my rights relating to my birth? Certainly not. So, it is not a change of religion. I may renounce Hinduism and accept Christianity. Thereby I am not deprived of any of my rights due to me by my birth.

Mr. V. D. Ouseph.—I say if you become a Christian.

Mr. P. Krishna Menon.—I said I *believe* in Christianity. I am not ignorant of these words. I know the full meaning of these words. I say I change my religion. When I believe in Christianity and renounce Hinduism it does not necessarily follow that I become a Christian.

Mr. A. Eachara Menon.—Professional Christian.

Mr. P. Krishna Menon.—Professed Christian! Therefore, the disability is not due to the freedom of conscience but with regard to the change of caste or creed. Such disabilities are attached for the loss of caste or expulsion from the caste. Now the crux of the matter lies in the fact whether the person who changes his caste has any right to retain his rights which he as a caste-man was enjoying. That being the real position, why does my Hon'ble friend who introduced the Bill say that it is expedient? What is the expediency involved in allowing a man to retain his rights, though he has lost the caste to which he belonged? My respectful submission is that such safeguarding of his rights, to make my meaning clearer I say caste rights, thereby meaning only the rights to which a person is entitled by reason of his caste in which he was born, what are the reasons for saying that it is expedient to safeguard those rights? On the other hand, I say that it is most inexpedient, as we have concrete examples of the troubles that have been caused by allowing or by the attempted enforcement of such a right. I can just now recollect two concrete instances of a Nayar *tarawad* and another of a Nambudiri *Illom*. I am not going to mention

LIBRARY ARCHIVES Kerala Legislative Assembly

the names. In both these, persons who had no right to become members of that family were introduced as members of the family. In the Nayar *tarawad* it led to partition, but in the Nambudiri *Illom* it led not only to partition but also to real and actual fight in the *Illom*.

Mr. V. D. Ouseph.—How were they introduced ?

Mr. P. Krishna Menon.—Both by marriage. These are concrete examples. Now I say, and I would go one step further and say, that that question is not one within the purview of the Legislative Council. Because the question of caste and caste rights—social status—is certainly beyond the pale of legislation. It is a matter which is to be controlled, guided and regulated by the caste authority whoever that may be. It is not left to the individual to decide whether he should belong to a particular caste or not. It is for the caste authority or persons who have the authority to control this. Now to take concrete examples. The Bill mentions only that no person should be deprived of any of his rights by reason of the change of religion or expulsion from caste. In the last sentence in the preamble no attempt has been made by the Hon'ble the mover of the Bill to give at least a few instances of the disabilities. If they are mentioned, it will be clear that they are disabilities pertaining to the caste and caste only. Now to exemplify my arguments, take the case of entry into a temple. Certain castes are not allowed generally entry into the temples. If a person, who loses his caste and who belonged to a caste which had the right of entry, became a member of a caste which has not the right of entry, and if he claims the right of entry, is it not in violation of the time-honoured customs and conventions of the community in which he was and of which he is not now a member?

Mr. V. D. Ouseph.—But that does not come under this Bill. It has to be decided whether he loses his right by reason of his change of caste.

Mr. P. Krishna Menon.—My Hon'ble friend should remember when he quotes the British Act of 1850 that there were no representatives of the people to regulate the passing of that Act.

Mr. E Ikkanda Warriar.—The Act is not the same.

Mr. P. Krishna Menon.—Now that Act was passed at a time when people believed sincerely that there was a necessity for such an Act. But it has been subsequently modified. The fact that it was passed in pre-Council days clearly shows that it was not in consonance with the views of the general public. I am going to controvert that Act. The existence of that Act is no reason for enacting a similar one here. That is my argument.

LIBRARY ARCHIVES Kerala Legislative Assembly

Therefore, if the disabilities contemplated are disabilities accruing on account of the expulsion from a particular caste, my contention is that that is not a subject matter for discussion in a Legislative Council. Of course, the trouble that will be brought about by the inclusion or by the granting of such rights topersons who are expelled from caste being manifold and manifest, I do not take up the time of the House. With these few remarks I beg to oppose the introduction of the Bill.

Mr. A. Eachara Menon.—I oppose this Bill. I am sorry that the Government, by giving sanction for the introduction of this Bill, have caused,..

President.—The Diwan has granted the sanction and not the Government.

Mr. A. Eachara Menon.—Have attempted to cause hatred in this House between the different communities.

President.—You say that the Diwan should have stopped it altogether?

Mr. A. Eachara Menon.—Sir, you will see the result of granting sanction in a short time. In the statement of objects and reasons the Member in charge of the Bill has said 'a man must be free to choose his faith in religion.' I admit that that is a correct statement. But what about the thirteen boys who were taken into a school, the thirteen Hindu Depressed Classes boys, whom the Director of Education referred to the other day, and who, within a couple of weeks, became Christians? Was Christian faith injected into them? Then the mover of the Bill speaks of the British Act. When was it passed, Sir? It was passed at a time when the people had no voice in the Government and the Rulers were strong. What is this Bill, Sir, but proselytism made easy? This Bill is to assist proselytisation and for nothing else. The Hon'ble mover of the Bill has been pleased to tell us that it would aid proselytisation.

Mr. V. D. Ouseph.—If you believe in Christianity, you become a Christian. That is proselytisation.

Mr. A. Eachara Menon.—While I have been at the college my professor Dr. Miller of revered memory used to tell us 'I do not want you to become Christians, my boys, but follow the teachings of Christ.' I had not great difficulty in conforming to his wishes for those teachings were not in any way antagonistic to the tenets of Hinduism—Bhagavathgita,—to the teachings of Mahomed and to the teachings of Buddha.

Mr. K. Ayyappan.—Do you believe that they are not against the teachings of Bhagavatgita?

Mr. A. Eachara Menon.—I do, Sir.

President.—If you carry on this discussion in this conversational manner, I think I will have to put a stop to it.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. Eachara Menon.— I say that proselytism is brought about, apart from the ways enumerated by the Member in charge of the Bill, through three things, namely, woman, want of education and poverty. The Member in charge of the Bill had said that those who changed faith due to spirituality did not require the aid of this Bill, and I say that those who changed their faith due to what I have enumerated do not deserve such an aid. Then why the Bill?

Mr. V. D. Ouseph.—You have not understood me rightly.

Mr. A. Eachara Menon.—The mover of the Bill had said in his statement of objects and reasons that all rights should be conserved to the converts. Suppose I change my religion and suppose also there is a temple in my house. Am I entitled to go there? I submit I cannot go there without creating confusion on account of my changing the religion. Thus no right is conferred upon me by the Bill. I have nothing more to say.

Mr. K. P. Kannan Nayar.—In the objects and reasons it is stated here, and I think the Hon'ble the mover has also stated, that the Bill as sought to be introduced is nothing but a copy of the British Act of 1850.

Mr. V. D. Ouseph.—Substantially the same.

Mr. K. P. Kannan Nayar.— We shall see whether it is substantially the same or literally the same. In British India it is only "The Caste Disabilities Removal Act." I am sure that the Hon'ble mover has not even taken the care to see what the title of the British Act is. The Act that is in force in British India is not the Caste and Religious Disabilities Removal Act of 1850 but it is only the "Caste Disabilities Removal Act." I want to say that it is not a copy of the British Act. The scope of that Act is sought to be extended very much by the introduction of this Bill. I shall show that. As regards the origin of the law in British India itself, it may be interesting to know how this Act came into existence there. There was prevalent in Bengal a Regulation which was passed in 1832, Regulation VII of 1832, during the time of the East India Company. This Act was also passed at the time of the East India Company, since it was only in 1858 that the Government was transferred to the Crown. There the preamble is "whereas it is enacted by Section 9 Regulation VII of 1832 of the Bengal Code, that "whenever in any civil suits the parties to such suits may be of different persuasions (I emphasise the word 'persuasions'; it is entirely different from belief, persuasion is profession) when one party shall be of the Hindu and the other of the Mohamadan persuasion or where one or more of the parties to the suit shall not be either of the Muhammadan or Hindu persuasions the laws of those religions shall not be permitted to operate to deprive such party or parties of any property (I again

LIBRARY ARCHIVES Kerala Legislative Assembly

emphasise the word property'; the word used is not 'right' but the word used is "property") to which, but for the operation of such law, they would have been entitled and whereas it will be beneficial to extend the principle of that enactment throughout the territories subject to the Government of the East Indian Company, it is enacted as follows."

That is the preamble there, and there the Hon'ble Members will be pleased to remember that the words used are "persuasions" and "property." There is only one section of the operative portion of the Act, and that is to be read with the preamble.

"So much of any law or usage now in force within the territories subject to the Government of the East India Company as inflict on any person a forfeiture of rights or property (no doubt the word 'right' occurs there but when you take it with the preamble it can only mean 'property') or may be held in any way to impair or affect any right of inheritance by reason of his or her renouncing or having been excluded from the communion of any religion or being deprived of caste shall cease to be enforced as law in the courts of the East India Company and in the Courts established by Royal Charter within the said territories."

Let us see the Bill introduced here. The preamble is "Whereas it has been the policy of the State to allow the freedom of religion to everyone and whereas it is expedient that a person should not be deprived of any of his rights because of his change of religion or expulsion from his caste, it is hereby enacted as follows:"

No mention of the word "property" is made in the Bill.

The next two are the operative portions of the Bill.

"No right which a person possesses shall be forfeited, impaired or in any way affected by reason merely of his renouncing or having been excluded from the communion of any religion or being deprived of caste".

The word used is "right" and not "property", and I think many of you who are lawyers will know the distinction between the meaning of the words "right" and "property".

Then section 4:—

"So much of any law or usage now in force in Cochin as inflicts on any person forfeiture of rights or property or may be held in any way to impair or affect any right of inheritance by reason of his renouncing or having been excluded from the communion of any religion or being deprived of caste shall cease to be enforced as law in the courts of the State".

In fact section (4) that has appeared here is practically the only section found in the British Act. Section 3 is an addition here, and if you want to conceive the scope of that, and if you want to consider what "right" really means in law, then I am sure Hon'ble Members will understand the scope to which this Act is capable of going or which it is intended to take by this piece of legislation. I have heard the mover saying here that, as far as the caste rights and other things are concerned, they were taken out of the British Act. With reference to rights to property, and so far as individuals are concerned, nothing is contemplated in that Act. Here he wants to extend the operation of the Act to such rights also as are not there. Of course, I understood him

LIBRARY ARCHIVES Kerala Legislative Assembly

to mean that he was not very particular with reference to all those rights. What those rights are, I may be permitted to say one or two instances so far as that is concerned. Of course, the right of entry into the temple is no doubt considered as a civil right. It is not for me to discuss whether it is an individual right in professing a particular form of religion or not. Now I will only say that, so far as the present law is concerned, it is strictly sought to be made proprietary. For example, there are joint living in a joint Hindu family or joint Malabar *tarwad*, joint messing and joint worship and right of management and several others. They are recognised as civil rights by the courts which, in the strict sense, may not be considered as rights to tangible immovable property. Those rights are also sought to be taken in this Act. Now I just beg of you to consider what would be the position? Suppose, so far as a joint Hindu family is concerned, a head of the family renounces his religion and becomes either a Muhammadan or a Christian or a member of any other religion. The question would be whether he would still retain his right to manage the affairs of that family, whether he would still retain his right to join in the family worship, to officiate at a family ceremony, to give daughters in marriage, and so many other rights which may be incidental to his being a member of a particular community to which he belongs. If we are to apply this Regulation, all those rights will remain in tact, so far as he is concerned. I think it would be better for you to imagine the disastrous consequences, if such results were to accrue, than for me to describe them. Now, in this connection, though it has been strictly interpreted to mean only proprietary rights, still, in considering even with reference to proprietary rights, if the Hon'ble mover had taken care to understand how this Act itself has been administered in British India—whether the decisions there, there is only a section and there are only half a dozen decisions bearing upon this section—it will be curious to find that no single decision agrees with another decision. The whole thing is conflicting, and I will give you only one instance. A question arose in the Allahabad High Court, and it is reported in 11 Allahabad where, in the case of a Hindu family, one member became a Muhammadan and after his death his sons brought a suit for possession. He had two sons after he had renounced the Hindu religion. There was also his brother who remained a Hindu. That brother died childless. He had a Hindu widow who took possession of the properties. The Muhammadan sons as reversioners wanted to get back the property. The question arose whether this Act would help them. The Allahabad High Court said that certainly "it would."

LIBRARY ARCHIVES Kerala Legislative Assembly

In a similar state of circumstances a case arose in Madras, the only difference being that instead of a Muhammadan brother suing it was a Christian brother. The decision was just the opposite and quite contrary to the Allahabad decision. This is reported in 40 Madras. Sir John Edge who heard the suit said that "it will not certainly apply." If my Hon'ble friend had only taken the trouble to understand how that Act has been the subject of conflicting decisions in British India,....

Mr. V. D. Ouseph.—There are only half-a-dozen decisions.

Mr. K. P. Kannan Nayar.—Even among those half-a-dozen decisions there is a good deal of conflict. So far as the Judges themselves are concerned, they could not find out the real scope of the Act. Even though this law has been in existence in British India for the last 80 years, they have not been able to come to a definite conclusion about this matter as to the scope of the applicability, &c.

Mr. V. D. Ouseph.—It is rather very curious to note that there has not been any amendment to this Act or an attempt to make this law wider in its scope.

Mr. K. P. Kannan Nayar.—My object is only to say, as an independent man, that we should not be guided by the preamble or by the sentiment. There should be freedom of religion. We should understand the legal implication and see where we are before we think of legislating upon any particular matter and particularly in this matter because we are taking the analogy of the British Legislature. I have been trying to bring to your notice one or two decisions of the Indian law courts. I shall read only one sentence of Sir John Edge (*Reading.*)

It may indeed be inconvenient for a Muhammadan to be introduced into a Hindu family or a Hindu into a Muhammadan family. But this is the law. If it is a grievance, the Judges who interpret the law are not responsible. We can interpret the law only as we find it without any consideration for the opinion of those persons whom the law may affect. To me it appears that, when Sir John Edge wrote that sentence, he had no mind. When the East India Company in the year 1850 by an Ordinance or by a Proclamation of the Governor-General-in-Council passed this, there is an indirect reference that the opinion of the people was never taken when this piece of legislation was passed. The Judge says "I can only interpret the law as I find it. It may not be convenient. It may not be correct." Now, are we in such a position? Before we are going to introduce this piece of legislation, we are to understand the sense of those who are to be affected by this piece of legislation. I am not speaking with reference to any particular community as all the communities have got their own laws in these matters. A Hindu has

LIBRARY ARCHIVES Kerala Legislative Assembly

got his own law, a Christian his own law and a Muhammadan his own law. So far as this Bill is concerned, it should be a matter which should be carefully considered by the community which may be affected by this piece of legislation before it is actually given effect to by this Council. The British Indian Legislatures had no such opportunity, and probably that is the reason why this law has been in force for 80 years. Ours is a most progressive State, and this piece of legislation has never been attempted to be introduced in any of the progressive States up till now. Now so much for it.

So far as the rights are concerned, it will be my next attempt to show that, even as regards the rights to property, I shall be able to convince this House that there is absolutely no difficulty, there is no disability now, so far as freedom of religion is concerned. There is absolutely no objection. You may believe in the principle of any religion. The only objection is so far as your outward profession is concerned, you may, if you want, say either in the Census Report or in any other public document, that you are a Hindu or that you are a Christian, though you may not believe in the tenets of these. Profession is entirely different from religion. So far as the freedom of religious disbeliefs is concerned, so far as I know, Mahathma Gandhi is characterised as one of the greatest Christian, though he is one of the staunchest of Hindus. So I say, you may not believe in the tenets of these for political purposes. In this connection the mover's suggestion is that you must have freedom of religion. So far as British India is concerned, there must be freedom of religion, and they have got it. Has the King-Emperor of India got freedom of religion? Can he say that he has embraced Roman Catholicism? The moment he says he is a Roman Catholic, he stands the chance of losing his throne. So that, he has to profess Protestantism. The late King-Emperor Edward was a Roman Catholic at heart, and on his day he became a Protestant. All the rites were performed in the Roman Catholic Church. It was only afterwards that the Archbishop of Canterbury went in. That story is current. I do not know. I have heard. Now who has the freedom? When the Emperor himself has not that liberty, why should he think that his subjects should have? So far as we are concerned, is there any liberty ? I ask the mover whether there has been any request by any member, either individually or collectively, to remove this disability so that the grievances may be redressed? Now, coming to the other question, with reference to the property right, what the mover said was that he was only anxious to have the right of property and not the right of temple entry

LIBRARY ARCHIVES Kerala Legislative Assembly

nor the right to enter the kitchen nor the right to join a family worship, they need not be considered, because he subsequently saw the scope of the British Act. It is so very limited. What are the grievances so far as these are concerned? Those of you who had occasion to read the evolution with reference to rights of property will be pleased to find at least that, so far as the community where a joint family system has been going on from time immemorial, I am taking the joint family system which is prevailing under the Hindu law as also the joint family in the Malabar law under the Marumakkathayam family, the individual has no place there. He has no absolute right to any portion of the property. So far as the Hindu family is concerned, there is the rule of survival, there is no succession. And, so long as he is a member of the family, that particular community or family has got certain rights. The individual has nowhere recognition. His interests are always subordinated to the interests of the community of the family. The individual rights of property, you will be pleased to see, are only a later development, a later growth, so far as the Hindu Law is concerned. In Hindu Law, as administered by courts at present, they have gone to the length of saying that a Hindu co-parcener can unequivocally divide from the rest of the members. There is a difference and there is a severance in status. He should be considered to be divided though his children are not. It is only an innovation to the Hindu Law whereas individuals are nowhere recognised. But a man in the family, when he happens to be the eldest member, we cannot deprive him of any portion of the family property. Yet it will be interesting to know that these children shall derive an interest in the family property because they are the children that are not born through him. They are entitled to the property because they are born in the family. It is birth that gives them the right. Now, no doubt the Hindu Law began to be administered where individual independence is asserted. In such a family the individual came to the forefront. He began to assert his right. Their adoption would lead to the disruption of the family, and of course the Judge in trying the case began to interpret as the members wanted to interpret them. So far as the Hindu Law is concerned, you will have the right to divide even during the lifetime of the father. The son may have the right to divide. Here also it will be seen that he should have the power, the right, and it is even recognised in Allahabad within the United Provinces. Whereas the right of co-parcener is not recognised at all. Though it is recognised in Allahabad, it is not recognised in the Madras Presidency. These are matters of later origin. It is only for this purpose that in 1850 the Act was passed in British

LIBRARY ARCHIVES Kerala Legislative Assembly

India. There is no individual right to property. Those who are all individuals have no right to the property. Individual right to property was begun to be asserted, and it has become keener. Now if you consider for a moment that you are entitled to the property, for in that case you are a member of the family, the very moment you cease to be a member of the family, you are deprived of that right also. Why should you think that right is left to him? Now, so far as I can understand the law, it appears that it can have practical application only in two sets of cases. One is where the co-parcener has a right to get a division. A member in the Malabar *tarawad* under the Malabar law, that is administered here, has got a right and he can claim his division. Now here a question may arise. Supposing I am a member of the same *thavazhi*. If the mother gives me permission, I may have the right to divide and give away a portion of this, now as it is. Now, suppose I become a convert to-morrow. Why should that right be lost? Now, so far as the other rights are concerned, my friend does not want to interfere with individual rights. I get individual right only because I am a member of that family. At first I had no right, subsequently it became to be recognised by judicial decisions and by judge-made law, if I may put it so. If that is so, why should not I claim a right, and why should I have the right? Even if I became a convert, where is the objection? There is no objection, I am exercising that right and coming away from the family either by renouncing the religion or being expelled from the caste. The same is the case, so far as the Hindu family and so far as the individual are concerned.

Mr. A. B. Salem.— Don't teach people all that.

Mr. K. P. Kannan Nayar.—I want to teach you all. Now, so far as that is concerned, my only attempt is to put a legal aspect to the whole question as regards the scope of that Act. What is it that you are going to do? Don't be carried away merely by sentiment. Where is the freedom of religion, and why not you give? Simply because there is something, let us not be carried away by this. Let us try to understand what is the implication attached so far as your freedom of religion is concerned. Suppose you become a Hindu, Christian, Muhammadan, Jew. There is no law which stands in the way. From the very moment you change your religion all your family property has to be forfeited. You can take away all the property and leave it as you like. The only thing that you want to touch on the joint family is the right which you may exercise, so far as that family is concerned. So far as that is concerned, you have no individual right. That

LIBRARY ARCHIVES Kerala Legislative Assembly

right you have exercised with relation to other members also. That is the position. Of course, although that law has extended that right also to you and you may divide, you can claim your division and say that you want your partition. That will be given to you. The only difficulty is, if you do not do it before you change your religion, you cannot have it after your change of religion. So, where is the grievance? I really cannot understand. So that, this is the position. There is absolutely no necessity, and there is absolutely no grievance. Then, why should you introduce this? This is to be done only if there is a demand. There is neither a collective demand nor an individual demand. I don't think that this will find favour with any except the Member who introduced and those two gentlemen. I think it is well known that, so far as the Muhammadan law is concerned, no Kaffir can succeed. Supposing a Muhammadan leaves half a dozen children, some of whom may have become converts. They cannot inherit his property. So far as every community is concerned, a law has been laid down to preserve the communal rights and to preserve the community as much as possible. The mover's object is, it seems, let there be no distinction, the only distinction being between men and women. If that is the ideal which you are driving at, I don't think that ideal is practicable. If you want to disrupt the whole community, and if you say let there be no communities and let there be no distinction, let there be the only distinction between man and woman, I really cannot agree with you. That seems to be the object so far as this Bill is concerned. So far as this great community is concerned, there have been law-givers, and I cannot understand why those laws which have been definitely laid down should be changed.

Mr. A. B. Salem.—I am sorry I have to oppose this Bill. This Bill does not take note of the fact of the past of the people. People do not stand in this world without having associations with the past. There may be, here and there, one or two individuals in every country who want to fly like a detached star, meteor and vanish. But the major portion of mankind are always rooted to the past. Such being the case, I can understand old laws very well. I cannot understand how a law can be made which is not acceptable to the major part of the people. The law made by the East India Company is absolutely no law, because it was the simple will of a company of foreigners who had the military with them and who could enforce their will upon any one under them. I will go even to the extent of saying that the laws which we have got now in our courts, excepting the Hindu law and the Muhammadan law and the personal laws of the people that are rooted in religion, the whole remaining part

LIBRARY ARCHIVES Kerala Legislative Assembly

of the laws which may be called the statutes of the Government of India are really no laws, because they have not got the sanction of the people behind them. That is the present case. Even here, it was only the other day in a sensational case at Delhi that Mahatma Gandhi's son has given the statement that "I am not constitutionally bound to obey these laws which are not made by the will or the opinion of the people." And you might have seen in yesterday's paper that we are all under a veiled martial law. Ordinances have been promulgated by the Commander-in-Chief of the British forces, the Viceroy of India. Therefore, we must think what are laws. The best expressions of a people that are codified for regulating their conduct are known as laws. The Hindu has his own law, the Muhammadan his own law, and the Jew his own law, and who is not to have his law? This is the question between the have and have-not. If it comes as the expression of the people for a change, it may be right. If it is only copying a law like this, because it exists in British India, that kind of argument I cannot accept. It was because certain persons became converts and they found that they could not get their property, therefore, the company people said we will bring in a law and get your property. Is it a law for everybody to copy? I can understand if a person becomes a convert—I would even go to the extent of saying that in a country where religion is valued more than life itself, such attempts should not be made. I am sure the Christian gentlemen in Cochin or in India are far more enthusiastic about religion, religious freedom and religious perfection than the co-religionists in the West who are materialised. The King of England has no freedom. Therefore, you can see, that is also rooted in history, because the Roman Catholics were so hated that they met with such an expression of the will of the people of England and the Defender of the Faith is an Act of the Parliament of England composed of all the people and the expression made by the Parliament is the expression of the will of the people. If we can get such an expression of opinion, a consensus of opinion for a change, well and good. But to grant it upon the fact that you are copying something, then I say, the original is not worth the candle. I showed it to you that it is not based on the expression of opinion of the people. It is simply the law of the East India Company. Therefore, I say, even if a law was made, of course it is not a law, because its force rested in the bayonet behind it. The Jewish law has no bayonet behind it. If it was the *vox populi* of India, I can understand. When the whole people came together in the Port for the preservation of the people they made certain

LIBRARY ARCHIVES Kerala Legislative Assembly

Regulations and made it Divine. Those are very valuable inheritances. Therefore, when a person wants to change his religion, he will, for the love of religion, sacrifice everything that he has got. 'Leave off everything that you have got, and follow me is the dictum of Christ''. So, if they want to add to their religion, let them leave off everything they have got. If a person leaves his religion, he has no more right in that religion. The freedom that you ask for yourselves you must give to the others. If a man has no religion, nobody wants to have anything to do with him. The argument is, if a man wants to change his religion, should he be deprived of the means of livelihood. That would be a case of hardship, but every case is hard, death itself is hard. The man is religiously dead, and you cannot ask others to recognise him any more. I know several instances where persons have become Christians, sacrificing all. As far as my constituency is concerned, I must oppose it. If a person become a Christian, the Jewish relations will not go and claim in the Christian religion. In that view this is a mischievous Regulation in our State. It is only an apple of discord where concord exists.

മിസ്റ്റർ കെ. അയ്യപ്പൻ.—സർ, മതത്തെപ്പറ്റി എന്തെങ്കിലും പറയുമ്പോൾ ആളുകൾ യുക്തിയെ മാറ്റിവെച്ചു് വികാരത്തെ അടിസ്ഥാനമാക്കി സംസാരിക്കുക പതിവാണു്. ഈ നിയമത്തെപ്പറ്റി ആലോചിക്കുമ്പോൾ ഓരോ സമുദായക്കാർക്കും അവരവരുടെ സമുദായത്തെ സംബന്ധിച്ചു അവർക്കുള്ള വികാരത്തെ ആസ്പദമാക്കി സംസാരിച്ചാൽ ഇതിന്റെ ശരിയായ പ്രയോജനവും ഇതുകൊണ്ടുള്ള വരുംവരായികയും ശരിക്കു അറിയാൻ സാധിക്കുകയില്ല. ഈ നിയമം ചിലരെ ക്രിസ്ത്യാനികളായി പരിവർത്തനം ചെയ്യാൻ സഹായമായേക്കാം. അതുകൊണ്ടു ക്രിസ്ത്യാനികൾ ഇതിൽ സന്തോഷിക്കാം. ഹിന്തുക്കൾക്കു് അവരുടെ ജനങ്ങൾ പരിവർത്തനം ചെയ്യപ്പോകുമെന്ന ഭയം ഉണ്ടായിരിക്കാം. ഈ സന്തോഷത്തെയും ഭയത്തെയും ആസ്പദമാക്കിയല്ല ഈ നിയമത്തെ ഇവിടെ വിചാരണ ചെയ്യേണ്ടതു്. മതസംബന്ധമായ വ്യക്തി സ്വാതന്ത്ര്യത്തിനുവേണ്ടി ഈ നിയമം പാസ്സാക്കണം. മതമെന്നു പറഞ്ഞാൽ വൈത്തല മെമ്പർ പറഞ്ഞതുപോലെ അകത്തുമാത്രം വെയ്ക്കുന്ന മതം ആയിരിക്കണമെന്നില്ല. ജനങ്ങൾ മതം അകത്തുമാത്രം വെയ്ക്കുന്നില്ല. പുറമേയും കൊണ്ടുവരുന്നുണ്ടു്. രുദ്രാക്ഷമായിട്ടും വെന്തിങ്ങയായിട്ടും മഞ്ഞപ്പട്ടായിട്ടും ആലിലയുമായിട്ടൊക്കെ പുറമേയും മതത്തെ കാണിക്കും. ഞാൻ ഒരു മതത്തിലും നിന്നുകൊണ്ടല്ല സംസാരിക്കുന്നതു്. ഓരോ മതത്തെയും പാറി ഗാഢമായി ആലോചിച്ചാൽ ഓരോ മതത്തിലും അങ്ങിനെയുള്ള ബാഹ്യരൂപം ഉണ്ടെന്നു കാണാം. ആ ബാഹ്യരൂപത്തിനു വേണ്ടി യുദ്ധംചെയ്യുന്നുണ്ടെങ്കിൽ അതിൽ സ്വാതന്ത്ര്യം വ്യക്തികൾക്കു വേണ്ടതാണല്ലൊ. ബ്രിട്ടീഷ് ഇൻഡ്യയിൽ നിന്നു പകർത്തുന്നതായതുകൊണ്ടു് ഇതിനെ നിഷേധിക്കണമെന്നില്ല. വാസ്തവത്തിൽ സ്വരാജ്യത്തെ സന്ദേഹം കൂടാതെ സഹായിക്കുന്ന ഈ നിയമം വന്നപ്പോൾ രാഷ്ട്രീയകാര്യങ്ങളിൽ അങ്ങെ അറ്റത്തു നില്ക്കുന്ന കൂട്ടുകാരും മതത്തിന്റെ ഇക്കിളികൂടി ഇതിനെ എതിർക്കുന്നതു കാണുമ്പോൾ തന്നെ ഇതുപോലുള്ള നിയമം ആവശ്യമാണെന്നു വരുന്നു. വിദ്യാഭ്യാസത്തിലും രാഷ്ട്രീയബോധത്തിലും മുന്നണിയിൽ നില്ക്കാനാഗ്രഹിക്കുന്ന ഇവർ, കുറെക്കാലം കഴി

LIBRARY ARCHIVES Kerala Legislative Assembly

ഞ്ഞെങ്കിലും ജനങ്ങൾ എല്ലാം ഒന്നാണെന്നു കരുതേണ്ട സമയം വരുമെന്നു ചിന്തിക്കുന്നില്ല. വെറും മാനസിക ഇക്കിയെ മാത്രം അടിസ്ഥാനമാക്കി നമ്മുടെ രാജ്യത്തിനു നാനാപ്രകാരേണയും ഗുണകരമായ ഈ നിയമത്തെ ഇക്കൂട്ടർ എതിർക്കുന്നതിൽ വലിയ അത്ഭുതം തോന്നുന്നു. അതുകൊണ്ടു ഞാൻ പറയുന്നതു് മതസ്വാതന്ത്ര്യത്തിനുവേണ്ടി എല്ലാവരും ഇതിനെ അനുവദിക്കണമെന്നാണു്. ഞാൻ ഒരു ഉദാഹരണം ഇവിടെ പറയാം. ഒരു ഈഴവനെന്നു പറഞ്ഞാലൊ, ഒരു നായരെന്നു പറഞ്ഞാലൊ മതസംബന്ധമായി ഒരർത്ഥവുമില്ല. ഈഴവനായി ജനിച്ചവൻ, നായരായി ജനിച്ചവൻ എന്നു മാത്രമെഅർത്ഥമുള്ളു. അങ്ങിനെ ഈഴവനെന്നു പറയുന്ന എനിക്കു് വളരെ അസ്വാതന്ത്ര്യങ്ങളുണ്ടു്. ഒരു ക്രിസ്ത്യാനി ആയാൽ അതൊക്കെ നീങ്ങും. എന്റെ ബുദ്ധിമുട്ടുകൾ നീക്കിത്തരുന്നതിനു് ഗവർമ്മെണ്ടിനുപോലും സാധിക്കാത്ത നിലക്കു് എന്റെ ആ അസ്വാതന്ത്ര്യങ്ങൾ നീക്കുവാൻ വേണ്ടി സമുദായം മാറിയാൽ സാധിക്കുമെങ്കിൽ അതു നല്ലതാണു്. മതം മാറണമെന്നില്ല. സമുദായം മാറിയാൽ മതി, അതാണു് ഞാൻ പറയുന്നതു് (ചിരി.) ആരു വിചാരിച്ചിട്ടും സാധിക്കാത്ത ആ കാര്യം ഞാൻ സൂത്രത്തിൽ സാധിക്കയാണെങ്കിൽ, ക്രിസ്ത്യാനിയാണെന്നു പറഞ്ഞു് സ്വാതന്ത്ര്യം നേടുമെങ്കിൽ അപ്രകാരം ചെയ്യാൻ മറ്റുള്ളവരെ എന്തിനു തടുക്കുന്നു? പക്ഷെ ഇപ്പോഴത്തെ നിലക്കു എനിക്കു നിവൃത്തിയില്ല. അങ്ങിനെ ആയാൽ എന്റെ തറവാട്ടിൽ എന്റെ വീതത്തിനുള്ള സ്വത്തു പോകുന്നു. മതസ്വാതന്ത്ര്യത്തിനുവേണ്ടി സ്വത്തും കളഞ്ഞുപോകണമെന്നു പറയുന്നതു ന്യായമല്ല. ആന്തരമായ കാര്യത്തിനു വേണ്ടി സ്വത്തുക്കളും ഉപേക്ഷിക്കണമെന്നില്ല. ഒരാളിനു സ്വല്പം വല്ലതും ലൌകികമായ പ്രയോജനത്തിനൊ, ആദ്ധ്യാത്മികമെന്നു പറയുന്ന പ്രയോജനത്തിനൊ വേണ്ടി മതം മാറണമെന്നുതോന്നിയാൽ അതിനു പ്രതിബന്ധം ഉണ്ടാകരുതു്. ഒരാൾ മതനിയമവുംകൊണ്ടുവന്നു. ഒരു മെംബർ ഈ ബില്ലുമൂലം ക്ഷേത്രപ്രവേശനം എല്ലാവർക്കും കിട്ടിപ്പോകുമെന്നു ഭയപ്പെടുകയുണ്ടായി. നാലഞ്ചുകൊല്ലംകൂടി കഴിയുമ്പോൾ ക്ഷേത്രപ്രവേശനസ്വാതന്ത്ര്യം എല്ലാവർക്കും വേണ്ടതാണെന്നു ആ മെംബർമാർ തന്നെ പറയും. ഈ നിയമം പാസ്സായിക്കഴിഞ്ഞാൽ ക്രിസ്ത്യാനിയും ഈഴവനും നായരും ഒരു വീട്ടിൽ ഒന്നിച്ചുകൂമെന്നാണു് ചിലരുടെ ഭയം. അങ്ങിനെ വന്നാൽ തന്നെ എന്തു? നാം ആ ഭയം കവിഞ്ഞു വളരേണ്ടിയിരിക്കുന്നു. ആ ബോധം നമ്മുടെ ജ്ഞതമെംബറിനെങ്കിലും കാണാൻ കഴിഞ്ഞില്ലല്ലോ എന്നു ഞാൻ അതിശയിക്കുന്നു. ഈസ്റ്റിൻഡ്യാകമ്പനി ഉണ്ടാക്കിയതായതുകൊണ്ടു് ഒരു നിയമം ചീത്തയാണെന്നു പറയുന്നതു് എന്തു മനസ്ഥിതിയാണു്? ഈസ്റ്റിൻഡ്യാ കമ്പനിയുടെ ബയനറിനെ ഭയന്നാണു് ആ നിയമം ഇൻഡ്യാക്കാർ അനുസരിക്കേണ്ടിവന്നതെന്നു പറയുന്നു. രാമരാജ്യത്തും ഇതുതന്നെയായിരുന്നു സ്ഥിതി. ഇന്നത്തെ ഈ രാജ്യങ്ങൾ എല്ലാം സ്ഥാപിച്ചതു ഈ നയംകൊണ്ടുതന്നെയാണു്.

ഇനി വേറൊന്നു പറയാനുള്ളതു് ഈ നിയമം ക്രിസ്ത്യാനികൾക്കുവേണ്ടി മാത്രമാണെന്നുള്ള വിചാരത്തെപ്പറ്റിയാണു്. ഈ വിചാരം അബദ്ധമാകുന്നു. ക്രിസ്ത്യാനികളുടെ പള്ളിനിയമം അസ്വാതന്ത്ര്യത്തെ കൂട്ടുന്നതാണു്. അതുകൊണ്ടു അസ്വാതന്ത്ര്യത്തിൽനിന്നും അസ്വാതന്ത്ര്യത്തിലേക്കു ചാടാനായി പോകുമെന്നു ആരും ഭയപ്പെടേണ്ടതില്ല. ഒരു അദ്ധ്യാപകൻ ഒരു പുസ്തകം എഴുതിയതിനു അയാളെ സൂചിയിലിടാൻ തുടങ്ങിയിട്ടുണ്ടു ഒരു മതത്തിലെ അസ്വാതന്ത്ര്യം ഭയന്നു് സ്വാതന്ത്ര്യം നേടാൻ ചെല്ലുന്നേടത്തു് അവിടെ വലുതായ അസ്വാതന്ത്ര്യം വായും പിളർന്നു നിന്നാൽ ആ അസ്വാതന്ത്ര്യം നേടാൻ ആരെങ്കിലും പോകുമൊ? മനുഷ്യർ സ്വതേ സ്വതന്ത്രരാണു. ആ സ്വാതന്ത്ര്യജീവിതത്തിനു എതിരായി എന്തെല്ലാം പരിസരങ്ങളുണ്ടൊ ആ പരിസരങ്ങ

LIBRARY ARCHIVES Kerala Legislative Assembly

LIBRARY ARCHIVES Kerala Legislative Assembly

ളെല്ലാം മാറ്റി രക്ഷിക്കേണ്ടതു് നിയമകർത്താക്കളുടെ കടമയാണു ഇങ്ങിനെയുള്ള കടമ നിവ്വഹിക്കാൻ ഇരിങ്ങാലക്കുട മെംബർ ശ്രമിച്ചതിൽ ഞാൻ അദ്ദേഹത്തെ അഭിനന്ദിക്കുന്നു.

ഇനി ഒരൻപതു കൊല്ലം കഴിഞ്ഞു് അന്നു ജീവിച്ചിരിക്കുന്നവർ ഈസു് മെംബറിന്റേയും എന്റേയും പ്രസംഗം വായിച്ചു് അന്നു വിധി പറഞ്ഞുകൊള്ളട്ടെ. ഞാൻ ഈ ബില്ലിനെ പിന്താങ്ങുന്നു.

Dr. A. R. Menon.—When I listened to the Hon'ble Member who moved this Bill, it came to me as a revelation that he is capable of such sympathy with the human race. There can only be two interpretations put to his attempt to pass this Bill through this House, either an over-flowing sympathy for the suffering human race or, as the Member for Chittur said, that the passing of this Bill may result in callous intentions and proselytising tendencies. These can be the only two interpretations. I shall be charitably disposed to the mover, though, as I said, it came to me as a revelation. He was sympathetic to all appearances, but he was not so sympathetic as he appeared. If it is due to sympathy, there is the old adage 'charity begins at home'. I may most humbly advise my friend and he would do well if he could utilise his talk much more profitably in eradicating certain unnatural and unjust laws that operate among the followers of the Christian religion. Now, it is a well-known fact all the world over that a Roman Catholic is not allowed to marry a Protestant unless the party consents to become a Roman Catholic; or at least the children are brought up in that religion. Are you going to deny that? I will never say a thing of which I have no full information. The parents have not the right to bring the children in the religion that they want. The hierarchy demands that the children shall be brought up in a certain religion. Now, can you gentlemen, do something in removing this? Would it not be more useful? I can certainly understand that there is a tendency. They are actuated by a motive to improve their religion. Are you denying that fact and saying this Bill does not help in proselytising? Then I shall prove that the Bill should be accepted. I am pausing to get an answer.

Mr. V. D. Ouseph.—It does help.

Dr. A. R. Menon.—Very good. What is the use of pretending all this sympathy for the human race? There, the cat is out of the bag. The history of Europe at the time of Henry VIII is a war between religion and politics, religion interfering with politics bringing disaster and wars. Now, after learning that history of inflicting untold miseries upon mankind for a matter of 400 or 500 years, I am surprised that we should begin it all over again by using the legislature for the purpose of the

priest or sastraic men. This is not a place for propagating your religion. You shall not have the use of this Council for the purpose of enabling you to convert people by appeals to sentiment, by appeals to sympathy or appeals to material prosperity. Nobody cares. But it shall not be allowed. Nobody shall be allowed to use the Legislative Council as a machine for propaganda work. That is the point. And, as I said, if it is a question of improving the thing, there are various defects. I have pointed out the other day another defect, that caste system existed among the Christians. Nowhere else in the world did it exist. Why not try to reform your own community? Why come and meddle with other communities? We are kept on looking. Other communities stand to lose by this Bill. The community to which the Member belongs does not lose, I can understand. I was saying yesterday, every question that is viewed in this Council, everything that is said in this Council is communalism. Here is an instance within 24 hours. It is my business to state these things, to state their tendencies, their methods, and, after having studied thoroughly just to arm myself, to object to them. And that is the reason why I have been charged with inconsistencies. I become inconsistent. Therefore, since the Member himself admitted that this Bill is liable to be made use of for proselytising purposes and since I am not very anxious that there should be fights between proselytising tendencies, between the Arya Samaj and Brahma Samaj, in my humble way I would like to get on without blood-shed. We don't want the reputation of the North Indian business here. We are already troubled in this unfortunate land. It is said that this would relieve us to a great extent from all these troubles. Certainly there are certain inequalities which should be rectified. Therefore, any man who considers his duties and responsibilities shall be consistent and persistent, and I say this measure is calculated to work immense and untold misery and mischief. For the reasons I have already stated I oppose this measure.

Dr. A. G. Menon.—I propose for a closure motion.

Mr. E. Ikkanda Warriar—I beg to second it.

President.—Do you want to hear the Government view?

Dr. A. G. Menon.—The Government said they were opposing. So far as this side of the House is concerned, I think there is nobody else to speak.

Mr. T. K. Nayar—What about this side?

Dr. A. G. Menon.—If you want to speak, of course, you can speak.

LIBRARY ARCHIVES Kerala Legislative Assembly

മിസ്റ്റർ ടി. കെ. നായർ.—ഈ ബിൽ എന്റെ കയ്യിൽ കിട്ടിയ അവസരത്തിൽ തന്നെ മിവാൻജി അവർകൾ ഇങ്ങിനെയുള്ള ബില്ലുകൾ കിട്ടിയാൽ അതാതിന്റെ ഗുണദോഷം ചിന്തിച്ചു തള്ളിക്കളയേണ്ടതായിരുന്നുവെന്നു തോന്നി. ഈ ബിൽ അപ്രകാരം തള്ളിക്കളയാതെ ഈ സഭയിൽ കൊണ്ടുവരാൻ അനുവാദം കൊടുത്തതു വളരെ കഷ്ടമായിപ്പോയി എന്നു ഇവിടെ ഇപ്പോൾ നടന്ന ബഹളങ്ങളും പ്രസംഗങ്ങളും വിളിച്ചറിയിക്കയും ചെയ്യുന്നു.

പ്രസിഡെണ്ട്.—പക്ഷെ മിവാൻജി നിങ്ങളുടെ അഭിപ്രായത്തോടു യോജിക്കുന്നില്ല.

മിസ്റ്റർ ടി. കെ. നായർ.—മതസംബന്ധമായ കാര്യങ്ങൾ ഈ കൌൺസിലിൽ കൊണ്ടുവരാൻ അനുവദിക്കുന്നതു് വളരെ ആലോചിച്ചു ചെയ്യേണ്ടതാണു്.

മിസ്റ്റർ എ. ബി. സേലം.—അനുവാദം കിട്ടിയാൽ കൊണ്ടുവരാം.

മിസ്റ്റർ ടി. കെ. നായർ.—അനുവാദം കൊടുത്തതുകൊണ്ടാണു് ഇവിടെ ഈ ലഹളകളും വഴക്കുകളും ഉണ്ടായതു്. ഇതു ചില മെംബറന്മാർ തമ്മിലുള്ള യോജിപ്പിനംകൂടി വിഘ്നം വരുത്തുകയില്ലേ എന്നു സംശയിക്കേണ്ടിയിരിക്കുന്നു.

മിസ്റ്റർ വി. ഡി. ജോസഫ്.—ഇല്ല; അങ്ങിനെ ഒരിക്കലും ഉണ്ടാകയില്ല. അതു തെറ്റിദ്ധാരണയാണു്.

പ്രസിഡെണ്ട്.—അങ്ങിനെ ഒന്നും വരാനിടയില്ല. ഇവിടെവച്ചു് നാം വിപരീതം പറഞ്ഞാലും ഇവിടെനിന്നും പിരിഞ്ഞാൽ അതുണ്ടാകയില്ല.

മിസ്റ്റർ ടി. കെ. നായർ.—ചുരുക്കത്തിൽ ഇതിനെ അടിസ്ഥാനമാക്കി പലരും മതങ്ങളെ ചീത്തപറയാൻ ഉദ്യമിച്ചേക്കാനിടയുണ്ടു്.

പ്രസിഡെണ്ട്.—പക്ഷെ ഇവിടെ ഒരു മതത്തെപ്പറ്റിയും അതും ഒരു ദോഷവും ഇതേവരെ പറഞ്ഞിട്ടില്ല.

മിസ്റ്റർ ടി. കെ. നായർ.—മതത്തിനൊന്നിനും ദോഷമില്ല. എല്ലാ മതവും നല്ലതുതന്നെയാണു്. പക്ഷെ ബില്ലിന്റെ ഉദ്ദേശം വേറെയാണു്. ബില്ലിന്റെ ഉദ്ദേശം ഹിന്തുമതത്തിൽനിന്നും വേറെ മതത്തിലേക്കു ചേരുന്ന ആളുകൾക്കു ഇപ്പോഴുണ്ടാകുന്ന അസ്വാതന്ത്ര്യങ്ങളെ ഇല്ലായ്മ ചെയ്യുവാനാണു്.

മിസ്റ്റർ വി. ഡി. ജോസഫ്.—എന്നു പറഞ്ഞിട്ടുണ്ടോ?

മിസ്റ്റർ ടി. കെ. നായർ.—പറഞ്ഞിട്ടില്ലെങ്കിലും ഇതിന്റെ ഉദ്ദേശം അതുതന്നെ. അവതാരകൻ തന്നെ അദ്ദേഹത്തിന്റെ പ്രസംഗത്തിൽ മുഖ്യമായി പറഞ്ഞതു് സ്മാർത്തവിചാരത്തെപ്പറ്റിയാണു്. അതുകൊണ്ടാണു് ഈ ബില്ലിന്റെ പുറമെ കാണുന്നതല്ല അതിന്റെ അകത്തെ ഉദ്ദേശമെന്നു ഞാൻ പറയുന്നതു്. വ്യഭിചാരകൊല്ലത്തോളമായി ഈ നിയമം ബ്രിട്ടീഷ് ഇൻഡ്യയിൽ നടപ്പുണ്ടെന്നാണു് വേറൊരു ന്യായംകൊണ്ടുവരുന്നതു്. എന്നാൽ ഈ വ്യഭിചാരകൊല്ലമായി ഈ നിയമം ഇവിടെ ഇല്ലാതിരുന്നതുകൊണ്ടുണ്ടായ ദോഷം എന്താണെന്നു് ആരും പറയുന്നില്ല. ദോഷത്തെ ചൂണ്ടിക്കാണിക്കാനായി ഫ്രാൻസിൽ നടന്ന ഒരു സ്മാർത്തവിചാരത്തെപ്പറ്റി അദ്ദേഹം വായിക്കയുണ്ടായി. അതിനശേഷം വന്നിട്ടുള്ള മാറ്റങ്ങളെന്തെല്ലാമെന്നു് കാണുന്നില്ല. ഫ്രാൻസിൽ നടന്ന സംഗതികളെപ്പറ്റി ഫ്രാൻസിൽ ഒരു ബിൽ കൊണ്ടുവന്നിരുന്നുവെങ്കിൽ കൊള്ളാമായിരുന്നു. അല്ലാതെ പത്തിരുപത്തഞ്ചുകൊല്ലത്തിനപ്പുറമുണ്ടായ ഒരു കാര്യത്തിനു് ഇപ്പോൾ ഒരു ബില്ലു കൊണ്ടുവരുന്നതിൽ ഒരർത്ഥവുമില്ല. ഇപ്പോൾ ഇങ്ങിനെ ഒരു ബിൽ ഇല്ലാത്തതുകൊണ്ടു് ആർക്കെങ്കിലും ആക്ഷേപമുണ്ടോ എന്നു ചോദിച്ചതിനു് 'ഇല്ലാ' എന്നാണു് മറുപടി പറഞ്ഞതു്. പിന്നെന്തിനാണു് ഈ ബിൽ? അതിനു ചിറയൻ മെംബർ പറഞ്ഞിട്ടുള്ള വാക്കുകൾ തന്നെയാണു് മറുപടി. ഈ ബിൽ സൂത്രത്തിൽ എടുപ്പും മട്ടും മാറി

LIBRARY ARCHIVES Kerala Legislative Assembly

ക്കാനുള്ള ഒരു വിദ്യ ആണെന്നു പറഞ്ഞാൽ മതി. ഇന്നു സത്യാഗ്രഹത്തിൽ വിശ്വസിച്ചു അതിലേക്കായി പുറപ്പെട്ട മഹാത്മാഗാന്ധി മതല്പേരുടെ സ്വത്തു എവിടെ? സ്വാതന്ത്ര്യം വേണമെന്നു പറയുന്നവരുടെ സ്വത്തു് എവിടെ? അതുപോലെ മതസ്വാതന്ത്ര്യം വേണമെന്നു പറയുന്നവക്കും സ്വത്തു് എന്തിനു്? സത്യാഗ്രഹികൾ സകലവും ത്യജിച്ചു പോകുന്നു. ആ സ്ഥിതിക്കു് സ്വാതന്ത്ര്യത്തിനു വേണ്ടി മതം മാറുന്ന ആൾക്കും എന്തുകൊണ്ടു സകലവും ത്യജിച്ചുപോകാൻ പാടില്ല. ലഹളയടിപിടികൾക്കു കാരണമാകുന്ന ഈ സ്വത്തു വേണമെന്നു് എന്തിനു നിയമം ഉണ്ടാക്കുന്നു? എന്തിനായി അതിനു വേണ്ടി വാദിക്കുന്നു? ഒരു മതത്തിൽനിന്നും സ്വാതന്ത്ര്യത്തിനായി മതം മാറിപ്പോകുന്നവർ എന്തിനാണു് സ്വത്തിനെ ആഗ്രഹിക്കുന്നതു്?

മിസ്റ്റർ കെ. അയ്യപ്പൻ.—അതു് ആ ഭാഗത്തേക്കും പാടില്ലേ?

മിസ്റ്റർ ടി. കെ. നായർ.—ഞാൻ എന്റെ മതത്തിൽ സ്വാതന്ത്ര്യമുള്ളവനാണു്. മറ്റു മതങ്ങളിൽനിന്നും എന്റെ മതത്തിലേക്കും ആളുകളെ ചേർക്കുന്നതായാൽ അവരുടെ സ്വത്തു വേണ്ടെന്നുവെക്കേണ്ടതാണു്.

മിസ്റ്റർ കെ. അയ്യപ്പൻ.—സാധിക്കയില്ല.

മിസ്റ്റർ ടി. കെ. നായർ.—ഹിന്തുമതത്തിൽനിന്നും അന്യമതത്തിലേക്കു മാറിപ്പോകുന്നവരെപ്പറ്റിയാണു് ഈ ബിൽ. അതുകൊണ്ടു ഇപ്പോഴിവിടെ അതിനെപ്പറ്റിയേ പറയേണ്ടതുള്ളൂ. ഒരു മതത്തിൽ നിന്നും മാറിപ്പോകുന്ന ഒരാൾ ആ മതത്തിൽ അയാൾ ആയിരുന്നപ്പോഴുള്ള സകലാവകാശങ്ങളും ഉപേക്ഷിച്ചിട്ടുവേണം പോകുവാൻ. അല്ലാതെ ഇപ്രകാരമുള്ള ബില്ലുകൾകൊണ്ടു ഒരിക്കലും സഹായിക്കാൻ പാടില്ല. ദയവുചെയ്തു ദിവാൻജി അവർകൾ അറിയേണ്ടതെന്തെന്നാൽ മതസംബന്ധമായ കാര്യങ്ങളെപ്പറ്റി സംസാരിക്കാനിടയാക്കുന്ന യാതൊരു സംഗതിയും ഈ കൌൺസിലിനകത്തു കൊണ്ടുവരാൻ അനുവദിക്കരുതെന്നാണു്.

പ്രസിഡെണ്ടു്.—അതു യുക്തിപോലെ പ്രവർത്തിക്കേണ്ടതാണു്.

മിസ്റ്റർ ടി. കെ. നായർ.—ഇതെന്റെ അപേക്ഷയാണു്. യുക്തിപോലെ ചെയ്താൽ മതി.

President.—You have a right of reply, Mr. Ouseph.

Mr. V. D. Ouseph.—The chief objection raised against the Bill is that the rights that are contemplated under the Bill are not clear. That is not so. My friend, Mr. Kannan Nayar, the Member for Vellarappalli, said that the Bill is not identical with the Act 21 of 1915. I think my friend did not carefully compare my Bill with the other. Though there are two sections in the Bill they are identical. One is the declaration of the right and the other is the repeal of the law to the contrary. So far as the objects and reasons are concerned, the so-called more comprehensive term 'right' is used there also. All the rights are included so far as the British Act also is concerned. It is only by interpretation that the Courts there have held that the Act does not affect rights which are incidental to caste. The most important objection raised by the Government Advocate is that this Bill preserves the right of temple entry to persons who are outcasted or who change their religion. The word "right" has been interpreted in the decision reported in XXIII Madras at page 110.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. Sankara Menon.—It was conceded. When I put it as an illustration, you conceded it.

Mr. V. D. Ouseph.—I said that, if there is anything there, you can rectify it.

The House rose for lunch at 2 p. m. and met again at 3 p. m. with the Deputy President in the Chair.

Mr. V. D. Ouseph.—I wanted to refer to a decision to show that the scope of the Bill is not so very far-reaching as was suggested by some of the speakers. I refer to a decision in I. L. R. 23—Madras at page 171. I will read only that particular portion. "I hold that Act 21 of 1850 does not restore to an outcast all the rights which he as a caste man could have duly enforced, nor does it contemplate the restoration of privileges the granting of which would amount to an interference, with autonomy of caste". There seems to be an apprehension on the opposition side that the scope of the Bill is more extensive and that its effect is far-reaching. I said from the very beginning that my purpose is only that, whenever a man goes out of his religion or is expelled from his religion, he should not lose his rights over his family property. There is no use suggesting that the scope is wider and upon that assumption argue that it is not identical with the one that is in force in British India. The Member for Vellarapilly was also referring to the fact that in respect of the half-a-dozen decisions in British India the Judges were not unanimous. I do not know what inference is to be made from that from the standpoint of a legislator. We lawyers know from experience that even in respect of the most undisputed principles there have been differences of opinion among the Judges. None of the decisions under the Act of 1850 show that it is an enactment which is imperfect nor are the decisions irreconcilable with one another. The Allahabad case referred to by my Hon'ble friend is not at all applicable to this. There the question was whether the descendants of a convert can have any relief by this legislation. On the very face of it we find that the legislation has no application to the descendants of converts and that is what has been decided by the Madras High Court. So that, as the decisions now stand, there is absolutely no difficulty. I do not think that temple entry question will come under the purview of this Bill. I think it is plain on the wording of the section itself. The Madras High Court is not bound to follow the decision of the Allahabad High Court nor are we bound to follow any of these decisions. Of course the interpretation now given to the Bill is that it does not extend to him any rights which as a caste man he has a right to exercise. I also submit that, if there are any details which require amendment, that can be safely done in the Select Committee stage. Here we are only to look to the principles of the

LIBRARY ARCHIVES Kerala Legislative Assembly

Bill. The principle is regarding the forfeiture of proprietary rights. That is the chief disability. Then again the Hon'ble Member for Vellarapilly made a good deal about the law of succession and other laws So far as the Bill is concerned, it does not in any way raise any of these issues. I think the objection of my friend is due to the fact that he views the matter from the stand-point of only one community, namely, the Nayar community. So far as the Brahmin community is concerned, every individual has got the right to demand his share. They can claim their share at any time. But so far as the Nayar community is concerned, there is only *thavazhi* partition allowed. Thus according to my friend a Nayar must wait till he gets his right for individual partition. Therefore, I say that is a real case where relief is necessary. That Member was also saying that the King-Emperor could not continue to be such if he changes his religion. Certainly that is a hardship which ought to be removed. The constitution was passed when there was persecution against the Roman Catholics. All these were since removed excepting this one rule. Even now agitation is going on to remove this. So long as the majority is otherwise inclined, we cannot get a relief. I ask, is it a just law ? That is an argument only in my favour. Suppose Mr. Kannan Nayar wants to become a Christian, I ask the question whether he is then to be deprived of his worldly possessions. The idea of proselytisation has no connection with this Bill at all. Even if it has any connection, I submit that it has only a very distant connection. Of course all these are cases which are to be covered by this legislation.

The Member for Trichur said that the underlying idea of this is proselytisation. I do not dispute the fact that it may have a distant connection. One Member has been complaining that the action of the Diwan was wrong in having accorded sanction for leave to introduce this Bill. I thought that this was the last thing which would have fallen from the lips of a non-official Member of this House. Every day we have been hearing complaints from several non-official Members that sanction has not been accorded by the Diwan for the introduction of certain Bills. I myself had sent one Bill long ago, and I have not received sanction for the same. The complaint has always been that the Diwan does not give full privilege to the Members of this House. I may also submit for the information of the House that this Bill is only a true copy of the Bill sought to be introduced by Mr. K. T. Mathew. If this Bill is passed, the argument that there will be too much of proselytisation cannot stand even for a moment. We must view the matter from the standpoint of individual members impartially. The Member for

LIBRARY ARCHIVES Kerala Legislative Assembly

Vellarapilly spoke about the evolution theory. Individual emancipation has been the line of progress everywhere now-a-days. would respectfully ask the Hon'ble Members not to be misled by this proselytisation idea and also by the idea that there will be a revolution. With these remarks I leave the Bill for voting.

Mr. A. Sankara Menon.—Sir, the Member in charge of the Bill has presented a Bill for the consideration of the House, and it may at first sight appear to be an innocent measure. I thought that the Bill was a very comprehensive one, and so I wanted to clear the point. I, therefore, asked what are the disabilities which this Bill wants to remove. My Hon'ble friend did not return a straight answer but answered it by saying that I knew it as much as he did.

Mr. V. D. Ouseph.—Rather more.

Mr. A. Sankara Menon.—And when the right of entry into the temple was referred to by me as an illustration, a rider was added to that answer by the statement that the matter can be considered by the Select Committee. The provisions of the Bill cannot, I think, be enlarged or curtailed or changed by the Select Committee. After the principle of the Bill has been considered by this House, it is not for the Select Committee to alter it. The only question now is what is the principle underlying this Bill. I say it goes to the fullest extent to which the Hon'ble Member for South Ezhuvas contended. He says that the effect of this Bill after some time will be that in the same family there may be a Christian, a Muhammadan, a Jew or a member of any other community or caste sitting, messing, living and worshipping together. The question is whether we should give a right of management of a *tarawad* to a convert or an outcast. It is stated that the Bill is only a copy of the British Act. I submit that there is an important addition to the British Act. Clause 4 of this Bill corresponds to the only section in the British Act. How did the third section come in? There is no such provision in the British Act. The section if properly construed would give the Bill the widest scope. It will include all the rights which are enjoyed by a member at the time when he becomes a convert. You will be pleased to see, Sir, that from the discussion that point has been made quite clear. The Hon'ble Member in charge of the Bill, therefore, now wants to limit the scope of the Bill. But the scope of the Bill has to be gathered from its language and not from what the Hon'ble Member says now.

Deputy President.—The question before the House is that the Cochin Caste and Religious Disabilities Removal Bill be read in Council.

Question put and negatived, Government opposing.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. S. Harihara Ayyar.—I want a poll, Sir.

The House divided: Ayes 3, Noes 23 and Neutral 1.

Ayes.

1. Mr. K. Ayyappan.
2. Mr. V. D. Ouseph.
3. Mr. M. K. Raman.

Noes.

1. Mr. V. K. Aravindaksha Menon.
2. ,, A. Eachara Menon.
3. ,, A. S. Harihara Ayyar.
4. ,, E. Ikkanda Warriar.
5. ,, K. P. Kannan Nayar.
6. ,, P. Krishna Menon.
7. ,, T. K. Krishna Menon.
8. ,, T. M. Krishna Menon.
9. ,, T. K Nayar.
10. ,, K. Krishna Pisharodi.
11. ,, P. Kumaran Ezhuthassan.
12. Mr. C. A. Kunjunni Raja.
13. Rao Sahib Mr. C. Matthai.
14. Mr. P. Nilakanta Menon.
15. ,, T. A. Ramachandra Ayyar.
16. ,, T. V. Ramalinga Ayyar.
17. ,, I. Raman Menon.
18. Rama Varmha Tampuran.
19. Mr. K. Ramunni Menon.
20. Dr. A. R. Menon.
21. Mr. A. B. Salem.
22. ,, A. Sankara Menon.
23. Diwan Bahadur Dr. V. Verghese.

Neutral.

1. Dr. E. A. Veigas.

4. Cochin Hindu Bill.

Deputy President.—The next item is 'motions for leave to introduce Bills.' The first is Mr. C. A. Kunjunni Raja's Cochin Hindu Bill.

Mr. C. A. Kunjunni Raja.—Sir, I rise to move for leave to introduce the Cochin Hindu Bill.

Mr. A. Eachara Menon.—I second it.

Mr. A. S. Harihara Ayyar.—I oppose it.

Mr. A. B. Salem.—It has not been the custom in this House to oppose any Bill at the time of moving for leave.

Mr. A. S. Harihara Ayyar.—But I cannot sacrifice my sentiment. It is so very revolutionary that it is against my sentiment.

Mr. C. A. Kunjunni Raja.—I don't think that I need trouble the House with any speech since the statement of objects and reasons is itself a sufficient explanation. The attempt is only to codify Hindu Law.

Mr. A. S. Harihara Ayyar.—Sir, when I got the copy of the Bill, I thought it was my duty to congratulate the Hon'ble Member for introducing such a Bill. But, as I perused the same, the idea occurred to me that I should oppose the same. My first impression threw me off my guard, and I was not able to peruse the whole of the Bill to-day. I only perused Chapter 2.

Dr. A. R. Menon.—It is rather a pity that the Hon'ble Member opposes the Bill without even looking into the provisions of the Bill. This is not the place for the Hon'ble Member

LIBRARY ARCHIVES Kerala Legislative Assembly